

REMARKS

Claims 1-4 and 22 were previously pending in this application. By this amendment, claims 1 and 4 have been amended. As a result claims 1-4 and 22 are pending for examination with claims 1 and 4 being independent claims. No new matter has been added.

Rejections Under 35 U.S.C. §112, first paragraph

The Examiner rejected claims 1, 4 and 22 under 35 U.S.C. §112 first paragraph as lacking written description. Applicant has amended claims 1 and 4 as suggested by the Examiner in the Office Action mailed November 26, 3003 and in a subsequent telephone conversation with Applicant's representative on February 10, 2004. Applicant believes that the amendment places the claims in condition for allowance and respectfully requests reconsideration and withdrawal of the rejection of claims 1, 4, and 22 under 35 U.S.C. §112, first paragraph.

Rejections Under 35 U.S.C. §102

The Examiner rejected claims 1, 3, and 22 under 35 U.S.C. §102(b) as anticipated. The New England Biolabs Catalog (1994, page 91). Applicant has amended claim 1 as suggested by the Examiner in the Office Action mailed November 26, 3003 and in a subsequent telephone conversation with Applicant's representative on February 10, 2004 to include the wash temperature for the hybridization as 68°C. Applicants believe that the amendment places the claims into condition for allowance and respectfully requests reconsideration and withdrawal of the rejection of claims 1, 3, and 22 under 35 U.S.C. §102(b).

The Examiner rejected claim 4 under 35 U.S.C. §102(b) as anticipated by Hloch et al. (Nucleic Acids Research, 1990, Vol. 18, page 3045) as evidenced by Lemaire et al (Life Sciences, 1993, Vol. 52, pp. 917-9260) and Castrillon et al. (PNAS, 2000, Vol. 97, pp. 9585-9590). Applicant has amended claim 4 as suggested by the Examiner in the Office Action mailed November 26, 3003 and in a subsequent telephone conversation with Applicant's representative on February 10, 2004 to clarify the language indicating that the claimed fragments "consist" of a nucleotide sequence set forth as SEQ ID NO:1, between 8 and 2223 nucleotides in

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length. Applicants believe that the amendment to the claim places it in condition for allowance. Therefore, Applicant respectfully requests the Examiner to withdraw the rejection of claim 4 under 35 U.S.C. §102(b).

CONCLUSION

In view of the foregoing amendments and remarks, this application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's representative at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
Diego H. Castrillon, Applicant

By: Mary Dilys S. Anderson
Mary Dilys S. Anderson, Reg. No. 52,560
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2211
Telephone: (617) 720-3500

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